

Exhibit 85

From: Benjamin Gould
Sent: Wednesday, February 16, 2022 10:39 AM
To: Kutscher Clark, Martie; Stein, Deborah L.; Lipshutz, Joshua S.; rring@gibsondunn.com; Davis, Colin B.; Mumm, Laura C.
Cc: Anne Davis; Lesley Weaver; Matt Melamed; Derek Loeser; Cari Laufenberg; Chris Springer; David Ko
Subject: RE: In re FB: Plaintiffs' Rule 26 Disclosures

Martie:

Plaintiffs intend to amend their initial disclosures again to specify, beyond any doubt, which of their claims seek which categories of relief. But to the extent you seek specific figures for the damages, documents to support those figures, or damages models, our view is that your request is not justified.

Under Rule 26(a)(1)(E), we are not obligated to disclose information or documents that your client has and that we have not yet received. We are not required to give you a figure for damages or restitution, or identify documents on which that figure is based, until we receive the financial and other documents on which we will base our damages or restitution. Likewise, we need not disclose damages models that will be the subject of expert testimony.

Ben

From: Kutscher Clark, Martie <MKutscherClark@gibsondunn.com>
Sent: Monday, February 14, 2022 3:06 PM
To: Lesley Weaver <lweaver@bfalaw.com>; Matthew Melamed <mmelamed@bfalaw.com>; Anne Davis <adavis@bfalaw.com>; Derek Loeser <dloeser@kellerrohrback.com>; Cari Laufenberg <claufenberg@kellerrohrback.com>; Chris Springer <cspringer@kellerrohrback.com>; David Ko <dko@kellerrohrback.com>
Cc: Stein, Deborah L. <DStein@gibsondunn.com>; Lipshutz, Joshua S. <JLipshutz@gibsondunn.com>; Ring, Rose <RRing@gibsondunn.com>; Davis, Colin B. <CDavis@gibsondunn.com>; Mumm, Laura C. <LMumm@gibsondunn.com>
Subject: In re FB: Plaintiffs' Rule 26 Disclosures

Facebook's request that Plaintiffs' further amend their Rule 26 disclosures.

1. With respect to Plaintiffs' claim for compensatory damages, will Plaintiffs amend their Amended Rule 26 disclosure by February 21 to disclose "a computation of each category of [compensatory] damages claimed . . . [and] the documents or other evidentiary material . . . on which each computation is based, including materials bearing on the nature of injuries suffered." Fed. R. Civ. P. 26(a)(1)(A)(iii).
2. With respect to Plaintiffs' claim for nominal damages, will Plaintiffs amend their Amended Rule 26 disclosure by February 21 to disclose "a computation of each category of [nominal] damages claimed . . . [and] the documents or other evidentiary material . . . on which each computation is based, including materials bearing on the nature of injuries suffered." Fed. R. Civ. P. 26(a)(1)(A)(iii).
3. With respect to Plaintiffs' claim for statutory damages, will Plaintiffs amend their Amended Rule 26 disclosure by February 21 to disclose "a computation of each category of [statutory] damages claimed . . . [and] the documents or other evidentiary material . . . on which each computation is based, including materials bearing on the nature of injuries suffered." Fed. R. Civ. P. 26(a)(1)(A)(iii).

4. With respect to Plaintiffs' claim for restitution, will Plaintiffs amend their Amended Rule 26 disclosure by February 21 to disclose "a computation of each category of [restitution] damages claimed . . . [and] the documents or other evidentiary material . . . on which each computation is based, including materials bearing on the nature of injuries suffered." Fed. R. Civ. P. 26(a)(1)(A)(iii).

Facebook is willing to table for the time being Plaintiffs' disclosure obligations with respect to their demand for unjust enrichment and/or disgorgement damages.

Martie Kutscher Clark

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